

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CRIMINAL ACTION NO. 5:09-CR-00027-RLV-DCK**

UNITED STATES OF AMERICA,

v.

BERNARD VON NOTHAUS,

Defendant.

IN RE: PETITION OF JAY KEY

ORDER

THIS MATTER IS BEFORE THE COURT on the Petition (Doc. No. 303), First Addendum (Doc. No. 653), Second Addendum (Doc. No. 691), Renewed Petition (Doc. No. 696), and Letter (Doc. No. 752) of Jay Key, seeking the return of fifty (50) \$10 silver Peace coins and one-hundred (100) \$1 copper Peace coins, or, in the alternative, satisfaction of his claim with Ron Paul coins or payment in equivalent damages. The Government has moved to dismiss Petitioner's claims. Based on the following, this Court **GRANTS** the Government's motions to dismiss and hereby **DISMISSES** Mr. Key's various filings. In support of this Order, the Court **FINDS AS FOLLOWS:**

WHEREAS, on November 10, 2014, the Court entered a Memorandum and Order (Doc. No. 270) affirming the jury's verdicts of guilty to Counts One, Two, and Three in the Superseding Bill of Indictment;

WHEREAS, on February 25, 2015, the Court entered the Amended (Third) Preliminary Order of Forfeiture (Doc. No. 297) forfeiting certain coins, metals, and other property to the United States;

WHEREAS, Petitioner Jay Key has filed a Petition (Doc. No. 303), a First Addendum (Doc. No. 653), a Second Addendum (Doc. No. 691), a Renewed Petition (Doc. No. 696), and a Letter (Doc. No. 752) claiming return of fifty (50) \$10 silver Peace coins and one hundred (100) \$1 copper Peace coins on October 19, 2007, or, in the alternative, satisfaction of his claim with Ron Paul coins or payment in equivalent damages;

WHEREAS, the United States has filed Motions to Dismiss the Petition of Jay Key and has argued the property he is seeking is illegal contraband and that the alternative relief sought is unavailable;

WHEREAS, based on the evidence, the Court has ruled in this case that coins minted after the warning by the United States Mint to the Liberty dollar organization and the Defendant on September 14, 2006, are counterfeit, and, therefore, contraband. *See* [Doc. No. 285] at p. 18.

WHEREAS, the Court has ruled in this case that “Items that are considered ‘contraband’ or ‘counterfeit’ under Section 492 are deemed illegal *per se* and automatically forfeited without having to satisfy the otherwise applicable forfeiture procedures.” [Doc. No. 285] at p. 11 n.10 (citing *Helton v. Hunt*, 330 F.3d 242, 247-48 (4th Cir. 2003)). The Court has further defined contraband in this case as “properties [in which] no person or entity other than the United States may have a property right or interest” *See* [Doc. No. 296] at pp. 2-3.

WHEREAS, 21 U.S.C. § 853(n)(6) and Fed. R. Crim. P. 32.2(c) do not allow recovery for the monetary equivalent of, or damages arising from, claimed property in this ancillary hearing, and Petitioner has not pointed this Court to any authority providing otherwise;

NOW, THEREFORE, because the Petitioner’s claim concerns coins that are contraband, it must be **DENIED**. The Petitioner’s claim for compensation, a monetary equivalent, or damages is also **DENIED**. Accordingly, pursuant to Fed. R. Crim. P. 32.2(c)(1)(A), the Petition (Doc. No.

303), First Addendum (Doc. No. 653), Second Addendum (Doc. No. 691), Renewed Petition (Doc. No. 696), and Letter (Doc. No. 752) of Jay Key are **DISMISSED** in their entireties for failure to state a claim upon which relief can be granted. The Government's motions (Doc. Nos. 645, 659, and 726), are hereby **GRANTED**.

SO ORDERED.

Signed: August 2, 2016

A handwritten signature in black ink, reading "Richard L. Voorhees", written over a horizontal line.

Richard L. Voorhees
United States District Judge

